

J. P. Stevens and Co., Inc. and Amalgamated Clothing and Textile Workers Union, AFL-CIO, CLC. Case 11-CA-6077

20 October 1983

SUPPLEMENTAL DECISION AND ORDER

On 20 August 1979 the National Labor Relations Board issued its Decision and Order in this case which, inter alia, imposed several extraordinary remedies upon the Respondent.¹ On 8 January 1982 the U.S. Court of Appeals for the Fourth Circuit enforced the Board's Order and remanded the case to the Board to determine the amount of the litigation and organizational expenses to be awarded.² Upon the Respondent's subsequent petition to the Supreme Court of the United States for writ of certiorari to the U.S. Court of Appeals for the Fourth Circuit on the issue of litigation and organizing expenses, the Supreme Court granted the petition, vacated the judgment of the court of appeals, and remanded the case to the court of appeals for further consideration in light of the Supreme Court's decision in *Summit Valley Industries v. Carpenters Local 112*, 456 U.S. 717 (1982).³ On 24 September 1982 the Board filed with the court of appeals a motion to remand this proceeding to the Board, for the purpose of reconsidering that portion of its Order involving litigation and organization expenses. On 15 October 1982 the court of appeals granted the Board's motion.

Thereafter, it was stipulated and agreed by and between the Respondent and the Union and the General Counsel of the National Labor Relations Board, inter alia, that, without further notice or proceeding herein, the Board may enter an Order modifying its previous Order in this case as provided in the Settlement Stipulation.

Having considered the matter, the Board approves the Settlement Stipulation. Accordingly,

The National Labor Relations Board orders that the Respondent, J. P. Stevens and Co., Inc., New York, New York, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to bargain in good faith with Amalgamated Clothing and Textile Workers Union, AFL-CIO, CLC, as the exclusive collective-bargaining representative of employees in the unit found appropriate below for purposes of collective bargaining. The bargaining unit is:

All production and maintenance employees employed at the Employer's Carter plant, Holly plant, and warehouses at Wallace, North Carolina, including plant clerical employees, watchmen, computer programmer in the dye house, electrical technician, and plant driver; excluding office clerical employees, professional employees, cloth store clerk, managerial employees, guards and supervisors as defined in the Act.

(b) Impeding employees in their right to distribute union literature in nonworking areas on nonworking time by promulgation, maintenance, or enforcement of any rule prohibiting employees from engaging in such activity, by physically obstructing them, threatening to call local law enforcement authorities, suspending them, or by in any other manner interfering with their right to engage in such activity protected by Section 7 of the Act.

(c) Engaging in surveillance of employees engaged in the distribution of union literature in nonworking areas on their own time, or creating the impression that union activity is the subject of surveillance.

(d) Threatening employees with discharge because of their union activity.

(e) Instructing employees to report to the Respondent the union activities of other employees.

(f) Granting benefits to employees to discourage them from engaging in activities in support of a union. However, nothing herein shall be construed as requiring the Respondent to vary or abandon any economic benefit or term and condition of employment which its employees at its Wallace facilities, or any other facilities, would otherwise be entitled to receive. Benefits shall not be denied to employees at the Respondent's Wallace facilities, or at any other of its facilities, that such employees would have received but for their support of a union or for their involvement in protected concerted activities.

(g) Instructing employees as to how they could invalidate union authorization cards when they are called as witnesses in a Board proceeding.

(h) In any other manner interfering with, restraining, or coercing employees in the exercise of their right to self-organization; to form, join, or assist the aforesaid union, or any other labor organization; to bargain collectively through representatives of their own choosing; and to engage in other concerted activities for the purpose of collective bargaining or mutual aid or protection, and to refrain from any or all such activities.

¹ 244 NLRB 407.

² 668 F.2d 767.

³ 456 U.S. 717 (1982).

2. Take the following affirmative action which is deemed necessary to effectuate the policies of the Act.

(a) Upon request, bargain with the aforesaid Union, as the exclusive representative of all employees in the appropriate unit described above and, if an understanding is reached, embody such understanding in a signed agreement.

(b) Post in conspicuous places including all places where notices to employees customarily posted at Respondent's Wallace, North Carolina, facilities copies of the attached notice marked "Appendix." Copies of said notices will be furnished by the Regional Director for Region 11 and, after being signed by Respondent's representative, shall be posted immediately upon receipt thereof, and maintained by Respondent for 60 consecutive days thereafter. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(c) On request of the Union, made within 2 years from the date thereof, immediately grant the Union and its representatives reasonable access to the plant bulletin boards and all places where notices to employees are customarily posted, at each of the Respondent's plants, for a period of 1 year from the date of request.

(d) In the event that during a period of 2 years following entry of this Order any supervisor or agent of the Respondent convenes any group of employees at any of the Respondent's plants and addresses them on the question of union representation, give the Union reasonable notice thereof and afford two union representatives a reasonable opportunity to be present at such speech and, on request of the representatives, permit one of them to address the employees for the same amount of time as the Respondent's address.

(e) If, within the next 2 years, the Board schedules an election in which the Union participates at any of the Respondent's plants, then, on request by the Union, afford at least two union representatives reasonable access to each of the Respondent's said plants and appropriate facilities to deliver a 30-minute speech to employees on working time, the date to be within 10 working days before but not within 48 hours prior to an election.

(f) On request of the Union, immediately furnish it with lists of the names, addresses, and classifications of all of the Respondent's employees at each of its plants as of the latest available payroll date, and furnish a corrected, current list to the Union at the end of each 6 months thereafter during the 2-year period referred to above.

(g) For the 2-year period, upon request of the Union and without delay, permit a reasonable

number of union representatives access for reasonable periods of time to all its canteens and rest and other nonwork areas, including parking lots, within each of its plants for the purpose of communicating orally and in writing with the employees in such areas during changes of shift, breaks, mealtimes, or other nonwork periods. The Respondent shall formulate rules on this subject in the same manner as provided in *J. P. Stevens & Co.*, 239 NLRB 738 (1978).

(h) Notify the Regional Director for Region 11, in writing, within 20 days from the date of this Order what steps the Respondent has taken to comply.

IT IS FURTHER ORDERED that the election conducted in Case 11-RC-3987 on 19 February 1975 be, and it hereby is, set aside, and that the petition be dismissed.

IT IS FURTHER ORDERED that the allegations of unlawful conduct not specifically found to be violative herein shall be dismissed.

APPENDIX

NOTICE TO EMPLOYEES POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights.

- To organize
- To form, join, or assist any union
- To bargain collectively through representatives of their own choice
- To act together for other mutual aid or protection
- To choose not to engage in any of these protected concerted activities.

The Amalgamated Clothing and Textile Workers Union, AFL-CIO, CLC, is recognized as the collective-bargaining representative of our hourly employees at Wallace, North Carolina.

WE WILL NOT take action affecting wages, hours, and working conditions of the employees at Wallace, North Carolina, without negotiating first with the Union.

WE WILL NOT preclude our employees by posted rule, or oral instructions, from engaging in the distribution of union literature in nonworking areas on their time.

WE WILL NOT prevent employees from distributing union literature on their own time, by physical obstruction, by threatening to call or calling law enforcement authorities, or by telling them that they are suspended.

WE WILL NOT engage in surveillance of employees, nor create the impression that we are spying on employees while they are engaged in union activity.

WE WILL NOT grant benefits to employees to discourage them from engaging in activities in support of a union. However, nothing herein shall be construed as requiring us to vary or abandon any eco-

nomic benefit or term and condition of employment which our employees at our Wallace facilities, or any other facilities, would otherwise be entitled to receive. Benefits will not be denied to employees at our Wallace facilities, or at any other of our facilities, that the employees would have received but for their support of a union or for their involvement in protected concerted activities.

WE WILL NOT in any other manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you under the Act.

J. P. STEVENS AND CO., INC.